

In re Appln. of Ross et al.
Application No. 09/100,100

supplemental submission pursuant to 37 C.F.R. Section 1.131. The signed version of the draft Declaration is being transmitted herewith.

Applicants have carefully considered the Office Action dated April 9, 2001, rejecting all of the currently pending claims. The Office Action rejects claims 25-27, 37-39, 42-45, 51, 55, 56 and 62 under 35 U.S.C. 102(e) as anticipated by Goltra U.S. Patent No. 5,802,495. The Office Action rejects claims 28, 29, 40, 41, 46, 48-50, 52-54, 57, 59-61 and 63-65 under 35 U.S.C. 103(a) over the Goltra '495 patent. For the reasons set forth below, Applicants traverse each ground for the rejection of all the pending claims.

With regard to the anticipation rejection of claims 25-27, 37-39, 42-45, 51, 55, 56 and 62 in paragraph 2 of the Office Action, it is unnecessary to specifically address the Office Action's bases for finding these claims anticipated by the Goltra '495 patent because the Goltra '495 patent reference is not prior art with regard to Applicants' invention. Applicants completed their invention, as set forth in each of the above-referenced claims, prior to the filing date of the Goltra '495 patent. Applicants submit herewith a Supplemental Declaration pursuant to 37 CFR Section 1.131 establishing reduction to practice date of the presently claimed invention prior to the filing date of the Goltra '495 patent. Thus, the rejection of the aforementioned claims as anticipated is overcome.

The obviousness rejection of claims 28, 29, 40, 41, 46, 48-50, 52-54, 57, 59-61 and 63-65 in paragraphs 4 and 5 of the Office Action is similarly overcome since the Goltra '495 patent is not prior art with regard to the presently claimed invention in view of Applicants submitted Supplemental Declaration of Frank T. Carroll, Jr. pursuant to 37 CFR Section 1.131. Furthermore, with regard to the obviousness rejection of claims 28, 29, 40 and 41 in paragraph

In re Appln. of Ross et al.
Application No. 09/100,100

4 of the Office Action over Goltra in view of official notice, Applicants agree that headlines and sub headlines and the use of bold, italic and larger text sizes in a document were known at the time of the invention. However, Applicants traverse the Office Action's official notice to the extent that the Office Action asserts that the prior art suggested combining these elements with the teachings of Goltra to render the invention recited in claims 28, 29, 40 and 41. The mere existence of the above identified elements does not suggest that one skilled in the art would have been motivated to incorporate them into Goltra. Indeed, Goltra does not even address visually formatting the resulting text. In the event that the rejection of claims 28, 29, 40 and 41 is not withdrawn, Applicants request provision of references disclosing the asserted well known elements so that Applicants may assess whether the claimed combinations are suggested by the references in view of Goltra.

With regard to the obviousness rejection of claims 46, 48, 49, 57, 59 and 60 in **paragraph 4** of the Office Action over Goltra in view of official notice, Applicants agree that updating a patient record was known at the time of the invention. However Applicants traverse the Office Action's official notice to the extent that the Office Action asserts that the prior art suggests the claimed combination of elements to render the claimed invention. In the event that the rejection of claims 28, 29, 40 and 41 is not withdrawn, Applicants request provision of references disclosing the asserted well known elements so that Applicants may assess whether the claimed combinations are suggested by the references in view of Goltra.

With regard to the obviousness rejection of claims 50 and 61 in **paragraph 4** of the Office Action over Goltra in view of official notice, Applicants agree that document editors, such as Microsoft WORD are known. However, Applicants traverse the Office Action's

In re Appln. of Ross et al.
Application No. 09/100,100

official notice to the extent that the Office Action asserts that the prior art suggests the claimed combination of elements to render the claimed invention. In the event that the rejection of claims 50 and 61 is not withdrawn, Applicants specifically request references disclosing the asserted well known elements so that Applicants may assess whether the claimed combinations are suggested by the references in view of Goltra.

With regard to the obviousness rejection of claims 52-54 and 63-65 in paragraph 4 of
the Office Action over Goltra in view of official notice, Applicants agree that the various security and accounting features of: limiting access, recording a time at which a particular piece of information is submitted for a patient medical record, and recording an identity of a logged on user that supplied a particular piece of information stored in the patient medical information record. However Applicants traverse the Office Action's official notice to the extent that the Office Action asserts that the prior art suggests the claimed combination of elements to render the claimed invention. In the event that the rejection of claims 52-54 and 63-65 is not withdrawn, Applicants specifically request references disclosing the asserted well known elements so that Applicants may assess whether the claimed combinations are suggested by the references in view of Goltra.

CONCLUSION

With regard to the obviousness rejection of claims 47 and 58 in paragraph 5 of the
Office Action over Goltra in view of Tallman, Applicants traverse the rejection for at least the reason that Goltra is not prior art to Applicants' invention.

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application, including presently pending claims 25-29 and

In re Appln. of Ross et al.
Application No. 09/100,100

37-65 to issue. Applicants have submitted a Supplemental Declaration to the original 131 declaration establishing a date of reduction to practice of the present invention prior to the filing date of the Goltra '495 patent. Furthermore, while a number of elements are indeed known in the prior art, Goltra does not suggest their incorporation to render the claimed combinations. Therefore the rejection of claims as obvious is improper.

If, in the opinion of the Examiner, a telephone conference or in person interview would expedite prosecuting the subject application, the Examiner is invited to call the undersigned attorney to arrange such a conference or meeting.

Respectfully submitted,



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Date: June 29, 2001

In re Appn. of Ross et al.
Application No. 09/100,100

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this REQUEST FOR RECONSIDERATION AND SUBMISSION OF DECLARATION OF FRANK T. CARROLL, JR. (along with any documents referred to as attached or enclosed) is being transmitted to the United States Patent and Trademark Office, Attention: Examiner P. Kanof, Art Unit 2765, Facsimile Number (703) 308-1396, on the date indicated.

Date: June 29, 2001

Norma J. Arhos
(Typed or printed name of person transmitting paper)

Norma J. Arhos
(Signature of person transmitting paper)

204920-AMD

PATENT
Attorney Docket No. 204920

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Ross et al.

Art Unit: 2765

Application No. 09/100,100

Examiner: P. Kanof

Filed: 06/19/98

6-29-01
3A13530

OFFICIAL

For: MEDICAL RECORDS,
DOCUMENTATION, TRACKING
AND ORDER ENTRY SYSTEM

**SUPPLEMENTAL DECLARATION OF FRANK T. CARROLL, JR. IN SUPPORT
OF THE DECLARATION OF THE INVENTORS UNDER 37 CFR §1.131**

I, the undersigned, hereby declare the following:

1. My full legal name is Frank T. Carroll, Jr.
2. I currently reside at: 7500 Talley, #18, San Antonio, Texas 78253
3. I was employed at Southwest General Hospital, 7400 Barlite, San Antonio, TX

78224, prior to and during the time in which the computer system, described and claimed in the above identified patent application ("the system"), was initially set up and used at Southwest General Hospital during the summer of 1995.

4. During the set up and initial test/use of the system in the summer of 1995, I held the position of Staff RN at Southwest General Hospital, and my responsibilities associated with that position included providing care to patients in the emergency department, serving as shift charge nurse, serving as the preceptor for new staff members, training staff in the use of the computer system, and making suggestions for wording of text for use in the nursing notes section of the computer system.

5. I participated in setting up the system at Southwestern General Hospital. Thereafter, my responsibilities at Southwest General Hospital during the summer of 1995

In re Appln. of Ross et al.
Application No. 09/100,100

resulted in my exposure to, and use of, the system on a daily basis. In particular, once the system was set up at Southwest General Hospital during the summer of 1995, I utilized the features and functions to include making triage notes, entering nursing notes, entering vital signs, taking off patient orders, printing out emergency department medical records, generating patient discharge instructions, distributing prescriptions to patients generated by emergency physicians using the computer system, and reviewing statistics from the emergency department generated by the computer system. I also participated in assigning computer system security privileges to nursing staff.

6. As a result of my daily use and reliance upon the system, I consider myself to be very familiar with the operation and capabilities of the system set up and operated at Southwest General Hospital by mid-July of 1995.

7. I have reviewed and understand the disclosure contained within the drawings and written description of this patent application, and I have read and understand the recited elements of claims 25-65 listed at pages 2-7 of the "Declaration of the Inventors Under 37 CFR §1.131."

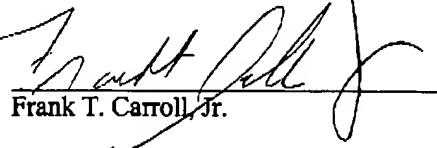
8. From my exposure to, and use of, the test system set up and used at Southwest General Hospital, I can state that each and every part of the claimed invention recited in claims 25-65 of the chart set forth at pages 2-7 of the "Declaration of the Inventors Under 37 CFR §1.131" was indeed present and operational in the test system at Southwest General Hospital by mid-July of 1995.

9. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United

In re Appln. of Ross et al.
Application No. 09/100,100

States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 5.15.01


Frank T. Carroll, Jr.

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